



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

1617
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TECH CENTER 1600/2900

IN RE APPLICATION OF:
Easterling

SERIAL NO. 10/044,288

FILED: 10/24/01

TITLE: ERECTILE-NEW

MAIL STOP NON-FEE AMENDMENT
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

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EXAMINER: Hui, San-ming

GROUP ART UNIT: 1617

Dear Sir:

In response to the Office Action dated 09/23/03, please consider the following:

REMARKS AND ARGUMENTS

This is in response to the Office Action dated 09/23/03.

It is respectfully submitted that, contrary to the Examiner's objection, Claims 16 and 17 of the present invention, as originally submitted, clearly delineate a patentable and unobvious invention. While Levine, et al. (Journal of Urology, 1994; 151:1522-1524) does teach "localized delivery of verapamil" for the treatment of Peyrone's Disease, the method of delivery of the medicament that Levine teaches, and that was conventionally used at the time, is inherently objectionable and painful penile injections. Most notable about this reference is the date of the article: 1994. U.S. patent No. 4,690,683, Chien, et al., teaches a method of transdermal delivery of verapamil. Most notable about this reference is the date of the patent: 1987.

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The fact that Chien disclosed a method of transdermal delivery of verapamil seven years prior to Levine's teaching of the efficacy of verapamil in the treatment of Peyronie's Disease, negates the idea that one "of ordinary skill in the art would have been motivated to employ verapamil transdermally to treat" Peyronie's. That one would administer an injection (especially in the treatment of Peyronie's disease) when any viable alternative treatment was obvious is not plausible. For these reasons, it is respectfully submitted that the Examiner reconsider and withdraw this rejection of Claims 16 and 17 under 35 USC § 103.

In view of the above, it is submitted that Claims 16 and 17 are in a condition for allowance. Reconsideration and withdrawal of the rejections and objections are hereby requested. Allowance of Claims 16 and 17 at an early date is solicited.

If impediments to allowance of Claims 16 and 17 remain and a telephone conference between the undersigned and the examiner would help remove such impediments in the opinion of the examiner, a telephone conference is respectfully requested.

Respectfully submitted,

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